

Article - Education

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§11–203.

(a) (1) Subject to paragraph (2) of this subsection, the Commission may require any institution of postsecondary education that is required to obtain a certificate of approval or an institution of higher education that is required to register under § 11–202.2 of this subtitle to furnish a performance bond or other form of financial guarantee for either the certificate of approval or the registration to the State conditioned that the institution will:

(i) Perform faithfully all agreements or contracts it makes with its students; and

(ii) Comply with this article.

(2) In addition to and separate from the requirements of subsection (d)(4) of this section, the Commission shall require each private career school and for-profit institution of higher education that operates in the State, and each for-profit institution of higher education that is required to register with the Commission under § 11–202.2 of this subtitle, to furnish a performance bond or irrevocable letter of credit in an amount equal to the school's or institution's non–Title IV adjusted gross tuition and fees for the prior July 1 through June 30.

(b) (1) Except as provided under subsection (a)(2) of this section and subject to paragraph (2) of this subsection, any bond or guarantee required under this section shall be in the form and amount the Secretary requires.

(2) A performance bond or irrevocable letter of credit required under this section shall be between the surety and the Commission.

(c) (1) The total liability of a surety on a bond or guarantee under this section may not exceed the amount of the bond or guarantee.

(2) If the total amount of claims filed against a bond or guarantee exceeds the amount of the bond or guarantee, the surety shall pay the amount of the bond or guarantee to the Secretary for distribution to the claimants.

(d) (1) By regulation, the Commission:

(i) May create and provide for the operation of two separate guaranty funds for:

1. For-profit institutions of higher education; and
2. Private career schools; and

(ii) May create and provide for the operation of a guaranty fund for institutions of higher education that are required to register under § 11–202.2 of this subtitle.

(2) (i) The for-profit institutions of higher education fund and the private career school fund shall be used:

1. In the event of a school closure by a for-profit institution of higher education or a private career school, to provide a full refund of tuition and fees incurred by a student that have not been reimbursed or discharged;

2. Subject to paragraph (3) of this subsection, to provide a refund, as determined by the Secretary, of tuition and fees incurred by a student that have not been reimbursed or discharged, if a for-profit institution of higher education or a private career school fails to:

A. Perform faithfully any enrollment agreement or contract with the student; or

B. Comply with any provisions of this article; or

3. For any other reason directly related to the original purpose of the fund deemed appropriate by the Secretary.

(ii) 1. The fund for institutions of higher education that are required to register under § 11–202.2 of this subtitle shall be used to reimburse any student at any of these institutions who is entitled to a refund of tuition and fees because the institution has failed to perform faithfully any agreement or contract with the student or failed to comply with any provision of this article.

2. A. After 3 years of claims history during which no claim against the fund has been sustained on behalf of a Maryland student participating in a fully online distance education program offered in the State by an institution registered under § 11–202.2 of this subtitle, the Commission shall exempt that institution from the requirement to contribute to the fund.

B. Notwithstanding subsubsubparagraph A of this subsubparagraph, an institution shall be required to contribute to the fund following a claim against the fund being sustained on behalf of a Maryland student

participating in a fully online distance education program offered in the State by the institution.

3. Notwithstanding subsubparagraph 2 of this subparagraph, a student who takes courses from an institution exempted from contribution to the fund under subsubparagraph 2 of this subparagraph may make a claim against the fund in accordance with subsubparagraph 1 of this subparagraph.

(iii) 1. The funds shall be continuing, nonlapsing funds, not subject to § 7–302 of the State Finance and Procurement Article.

2. Any unspent portions of the funds may not be transferred or revert to the General Fund of the State, but shall remain in the funds to be used for the purposes specified in this subsection.

3. No other State money may be used to support the funds.

(iv) The Commission shall be subrogated to and may enforce the claim of any student to the extent of any actual or authorized reimbursement from the funds.

(3) (i) Subject to subparagraph (ii) of this paragraph, a student shall follow the complaint process of the institution before making a claim under paragraph (2)(i)2 of this subsection to a guaranty fund established under this section.

(ii) If an institution does not respond within 30 days after the receipt of a complaint filed under subparagraph (i) of this paragraph, the student may make a claim to a guaranty fund established under this section.

(4) (i) Each for-profit institution of higher education or private career school that is required to obtain a certificate of approval and, subject to paragraph (2)(iii)2 of this subsection, each institution of higher education required to register under § 11–202.2 of this subtitle shall pay an annual fee into the appropriate fund.

(ii) The Commission shall determine the amount of the fee based on the probable amount of money needed for the funds for each fiscal year. If the money in the guaranty fund is insufficient to satisfy duly authorized claims, the participating institutions may be reassessed and shall pay the additional amounts required.

(iii) The Commission may not issue a certificate of approval or registration to, and shall revoke any certificate of approval or registration previously issued to, an institution that fails to pay any annual fee or reassessment.

(iv) The Commission shall deposit into the appropriate fund any penalty assessed against a for-profit institution of higher education, institution of higher education required to register under § 11-202.2 of this subtitle, or private career school, respectively, under the terms of § 11-204 of this subtitle.

(5) (i) The funds shall be maintained by the State Comptroller who may deposit the assets of the funds in any manner that is consistent with the purposes of the funds.

(ii) All interest or other return on fund investments shall be credited to the funds.

(6) The Commission, through the Attorney General, may enforce any claim to which the Commission has been subrogated under this subsection.

(e) (1) An institution that closes one or more programs in a manner that is a disorderly closure as defined in § 11-210 of this subtitle is in violation of the enrollment agreement or other contract with a student enrolled at the time of the closure.

(2) (i) A Maryland student enrolled in an institution within 120 days before the date of the disorderly closure shall be entitled to reimbursement from the performance bond or irrevocable letter of credit of all non-Title IV tuition and fees paid to the institution.

(ii) Reimbursement made under subparagraph (i) of this paragraph shall be issued to all Maryland students, including those who transfer to another institution.

(3) The Commission shall adopt regulations to carry out the provisions of this subsection.

(f) On or before December 1 each year, the Commission shall report to the Governor and, in accordance with § 2-1257 of the State Government Article, the General Assembly, regarding:

(1) The number of claims made against each guaranty fund established under this section;

(2) The type, size, and program of the institutions against which the claims are made;

(3) The reason for the claim, including whether the private career school or for-profit institution of higher education closed and, if so, whether some students were able to finish their program despite the closure and, if so, how many;

(4) The number of claims that are approved and the associated payouts from the funds; and

(5) The number of claims that are denied.

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